

(Name) **KEVIN BURTON**

(Address)

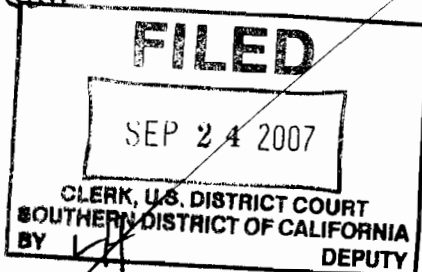
1173 FRONT ST Jail I.D. # 7714278
San Diego Central Jail

(City, State, Zip)

SAN DIEGO, CA 92101

(CDC Inmate No.)

C-38062



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Court	ProSe

United States District Court
Southern District of California

CV 07

5618 (PR)

(Enter full name of plaintiff in this action.)

Kevin BURTON

Plaintiff,

07CV 1870 W

Civil Case No.

RBB

(To be supplied by Court Clerk)

v.

CALIFORNIA department of Corrections and Rehabilitation (CDCR);
DIRECTOR CDCR; Mike Evans, Warden, Salinas Valley State Prison;
Lieutenant Krenke; Sergeant Ramirez; Sergeant BRUNCATO;
Sergeant Okeeno; Correctional Officer (C/O) CORRASCO;
C/O CONTRERAS; C/O Philmon; C/O Wilson; C/O Horrence; C/O SILVA;
C/O Garcia; C/O GRAYWALD; C/O Goodhume; C/O Perez;
(MTA) CRUMTAY; MTA Garcia; MTA Ziegler; MTA Moss; Ddes 1-50;

(Enter full name of each defendant in this action.)

Defendant(s).

Complaint Under the
Civil Rights Act
42 U.S.C. § 1983

A. Jurisdiction

Jurisdiction is invoked pursuant to 28 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983. If you wish to assert jurisdiction under different or additional authority, list them below.

B. Parties

1. Plaintiff: This complaint alleges that the civil rights of Plaintiff,

KEVIN BURTON

(print Plaintiff's name)

KEVIN BURTON, who presently resides at San Diego Central Jail 1173 Front St
(mailing address or place of confinement)

Constitutional & Statutory rights, were violated by the actions

of the below named individuals. The actions were directed against Plaintiff at All times relevant herein
State Prison, As an Inmate of the California Department of Corrections & Rehabilitation, on (dates) Jan 11, 2005, to, Jan 18, 2005, and
Salinas, Monterey County, California. At Salinas Valley
(institution/place where violation occurred)

(Count 1)

(Count 2)

(Count 3)

2. Defendants: (Attach same information on additional pages if you are naming more than 4 defendants.)

1/14

② Defendant California Department of Corrections
Rehabilitation (CDCR) resides in Salinas, Monterey County, CA.
(name) (County of residence)
and is employed as a IS, and at all time pertinent herein was, This defendant is sued in
The Administrative agency responsible for the care and custody of state prisoners
(defendant's position/title (if any))
his/her ☐ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting
under color of law: Defendant:
CALIFORNIA Department of Corrections; Rehabilitation (CDCR)
IS, And at all times pertinent herein was, the Administrative agency responsible
for the care and custody of state prisoners.

③ Defendant Director (CDCR) resides in SACRAMENTO, CA
(name) (County of residence)
and is employed as a Director of (CDCR) This defendant is sued in
(defendant's position/title (if any))
(his/her ☒ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting
under color of law: Defendant; Director CDCR, IS, and at all times pertinent herein
was employed as director of CDCR, and was responsible for the care and treatment
of state prisoners, including plaintiff, as well as the training and supervision
of correctional employees of CDCR.

④ Defendant Mike Evans resides in Salinas, Monterey County, CA.
(name) (County of residence)
and is employed as a Warden of Salinas Valley State Prison (SVSP) This defendant is sued in
(defendant's position/title (if any))
(his/her ☒ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting
under color of law: Defendant Mike Evans, IS, and at all times pertinent herein was,
employed as Warden of Salinas Valley State Prison (SVSP) and was responsible
for the care and treatment of state prisoners, including plaintiff, as well as overall
management of SVSP and training and supervision of correctional employees at SVSP.

⑤ Defendant Lt. Krenke resides in Salinas, Monterey County, CA.
(name) (County of residence)
and is employed as a Correctional Lieutenant This defendant is sued in
(defendant's position/title (if any))
(his/her ☒ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting
under color of law: Defendant Lt. Krenke, IS, and at all times pertinent herein
was, an employee of the CDCR, and was responsible for the care
and treatment of state prisoners, including plaintiff. Krenke
served as Lieutenant in ad-seg during plaintiff's confinement
therein

6 Defendant, Sergeant Ramirez
name

resides In ^{Salinas, Monterey} ~~county, CA~~
(County of residence)

and Is employed by CDCR. Correctional Sergeant
(defendants position (title))

This defendant Is sued In

his (her) Individual official capacity

Explain how this defendant

was acting under color of law: Defendant Sgt. Ramirez Is, and at all times
Pertinent herein was, an employee of the CDCR and was responsible for the care & treatment
of state prisoners, including plaintiff. Ramirez served as a Sergeant In Ad-seg during plaintiff's
confinement therein.

7 Defendant, Sergeant Bruncato
name

resides In ^{Salinas, Monterey} ~~county, CA~~
(County of residence)

and Is employed by CDCR Correctional Sergeant

This defendant Is sued In

his (her) Individual official capacity.

Explain how this defendant

was acting under color of law: Defendant: Sergeant Bruncato, Is and at all
times pertinent herein was, an employee of the CDCR and was responsible for the care
and treatment of state prisoners, including plaintiff. Bruncato, served as a Sergeant In Ad-seg during
plaintiff confinement therein.

8 Defendant Sgt O'Keeno,
name

resides In ^{Salinas, Monterey} ~~county, CA~~
(County of residence)

and Is employed by CDCR Correctional Sergeant

This defendant Is sued In

his (her) Individual official capacity.

Explain how this defendant

was acting under color of law: Defendant Sergeant O'Keeno, Is, and at all
times pertinent herein was, an employee of the CDCR, and was responsible for the care and
treatment of state prisoners, including plaintiff. O'Keeno, served as a Segeant In Ad-seg
during plaintiff's confinement herein.

9 Defendant Correctional officer 90 CARRASCO,
name

resides In ^{Salinas, Monterey} ~~county, CA~~
(County of residence)

and Is employed by CDCR

This defendant Is sued In

his (her) Individual official capacity

Explain how this defendant

was acting under color of Law: Defendant Correctional officer 90 CARRASCO,
Is, and at all times pertinent herein was, an employee of CDCR and was
responsible for the care and treatment of state prisoners, including plaintiff.
CARRASCO served as an officer In ad-seg during plaintiff confinement.

10 Defendant C/O SILVA,
name

resides In: Salinas, Monterey
County, CA
(County of Residence)

and Is employed as a Correctional Officer %
(defendants position/title)

This defendant Is sued In

(his/her) Individual ☒ official capacity.

Explain how this defendant

was acting under color of Law: C/O SILVA, Is, and at all times pertinent herein was, an employee of CCR and was responsible for the care & treatment of State prisoners, Including plaintiff. SILVA served as an officer In ad-seg during plaintiff's confinement therein.

11 Defendant C/O Contreras,
name

resides In: Salinas, Monterey
County, CA.
(County of Residence)

and Is employed as a Correctional Officer %.

This defendant Is sued In

(his/her) Individual ☒ official capacity.

Explain how this defendant

was acting under color of Law: C/O CONTRERAS, Is, and at all times pertinent herein was an employee of the CCR and was responsible for the care & treatment of State prisoners, Including plaintiff. Contreras served as an officer In ad-seg during plaintiff's confinement therein.

12 Defendant C/O PHILMON,
name

resides In: Salinas, Monterey
County, CA
(County of Residence)

and Is employed as a Correctional Officer %.

This defendant Is sued In

(his/her) Individual ☒ official capacity.

Explain how this defendant

was acting under color of Law: C/O PHILMON, Is, and at all times pertinent herein was, an employee of CCR and was responsible for the care and treatment of state prisoners. Including plaintiff. Philmon served as an officer In ad-seg during plaintiff's confinement therein.

13 Defendant C/O Wilson,
name

resides In Salinas, Monterey
County, CA
(County of Residence)

and Is employed as a Correctional Officer %

This defendant Is sued In

(his/her) Individual ☒ official capacity.

Explain how this defendant

was acting under color of Law: C/O Wilson, Is, and at all times pertinent herein was, an employee of the CCR and was responsible for the care and treatment of State prisoners, Including plaintiff. Wilson Served as an officer In Ad-seg during plaintiff's confinement therein.

14 Defendant C/O Horrence
name

resides In Salinas, Monterey
County, CA
(County of residence)
This defendant is sued in

and is employed as a Correctional Officer C/O
defendants position/title

his/her ☒ Individual ☒ official capacity. Explain how this defendant was acting

Under color of Law: C/O Horrence, is, and at all times pertinent herein was, an employee of the CDCR and was responsible for the care and treatment of State prisoners, including plaintiff. Horrence served as an officer in ad-seg during plaintiff's confinement therein

15 Defendant C/O Perez,
name

resides In Salinas, Monterey
County, CA
(County of residence)
This defendant is sued in

and is employed as a Correctional Officer C/O

his/her ☒ Individual ☒ official capacity. Explain how this defendant was acting

Under color of Law: C/O Perez, is, and at all times pertinent herein was, an employee of the CDCR and was responsible for the care and treatment of state prisoners, including plaintiff. Perez served as an officer in ad-seg during plaintiff confinement therein.

16 Defendant C/O Garcia,
name

resides In Salinas, Monterey
County, CA
(County of residence)
This defendant is sued in

and is employed as a Correctional Officer C/O

his/her ☒ Individual ☒ official capacity. Explain how this defendant

was acting under color of Law: C/O Garcia, is, and at all times pertinent herein was, an employee of the CDCR and was responsible for the care and treatment of state prisoners, including plaintiff. Garcia served as an officer in ad-seg during plaintiff's confinement therein

17 Defendant C/O GRAYWALD,
name

resides In Salinas, Monterey
County, CA
(County of residence)
This defendant is sued in

and is employed as a Correctional Officer C/O

his/her ☒ Individual ☒ official capacity. Explain how this defendant

was acting under color of Law: C/O Graywald, is, and at all times pertinent herein was, an employee of the CDCR and was responsible for the care and treatment of state prisoners, including plaintiff. Graywald served as an officer in ad-seg during plaintiff's confinement therein

(18)

Defendant C/O Goodhume
name

resides in Salinas, Monterey
County, CA
(County of residence)

and is employed as a Correctional Officer C/O
(defendant's position/title)

This defendant is sued in

☒ his ☒ her ☒ Individual ☒ official capacity.

Explain how this defendant

was acting under color of Law: C/O Goodhume, is, and at all times pertinent herein was, an employee of the COCR and was responsible for the care and treatment of state prisoners, including plaintiff. Goodhume served as an officer in ad-seg during plaintiff's confinement therein.

(19)

Defendant Medical Technical Assistant (MTA) CAUNTA
name

resides in Salinas, Monterey
County, CA
(County of residence)

and is employed as a Medical Technical Assistant (MTA)

This defendant is sued in

☒ his ☒ her ☒ Individual ☒ official capacity.

Explain how this defendant

was acting under color of Law: (MTA) CAUNTA, is, and at all times pertinent herein was, an employee of the COCR and was responsible for the care and treatment of state prisoners, including plaintiff. CAUNTA served as an MTA in ad-seg during plaintiff's confinement therein.

(20)

Defendant MTA Garcia
name

resides in Salinas, Monterey
County, CA
(County of residence)

and is employed as a MTA

This defendant is sued in

☒ his ☒ her ☒ Individual ☒ official capacity.

Explain how this defendant

was acting under color of Law: MTA Garcia, is, and at all times pertinent herein was, an employee of the COCR and was responsible for the care and treatment of state prisoners, including plaintiff. Garcia served as MTA in ad-seg during plaintiff's confinement therein.

(21)

Defendant MTA Ziegler
name

resides in Salinas, Monterey
County, CA
(County of residence)

and is employed as a MTA Ziegler

This defendant is sued in

☒ his ☒ her ☒ Individual ☒ official capacity.

Explain how this defendant

was acting under color of Law: MTA Ziegler, is, and at all times pertinent herein was, an employee of the COCR and was responsible for the care and treatment of state prisoners, including plaintiff. Ziegler served as an MTA in ad-seg during plaintiff's confinement therein.

22

Defendant MTA MOSS,
Name

resides in ^{Salinas,} Monterey,
(County of residence)

And Is Employed as a MTA,
(defendants position/title)

This defendant is sued in

his ~~her~~ ^{Individual} ~~Official~~ capacity.

Explain how this defendant

was acting under color of Law; MTA MOSS, Is, and at all times pertinent herein was, an employee of the COCR and was responsible for the care and treatment of state prisoners, including plaintiff, MOSS served as an MTA in ad-se during plaintiff's confinement therein.

23 Defendant DOES 1-50,
Name

resides in ^{Salinas, Monterey} County, CA.
(County of residence)

And Is Employed as Individuals

This defendant is sued in

his ~~her~~ ^{Individual} ~~Official~~ capacity.

Explain how this defendant

was acting under color of Law; DOES 1-50 are Individuals who were at all times relevant herein employees of COCR with a duty to care for state prisoners, including plaintiff.

24 Plaintiff Is Ignorant of the true names and capacities of defendants sued herein as DOES 1-50 Inclusive, and therefore Sues these defendants by their fictitious names. Plaintiff will amend this complaint to allege their true names and capacities when information is ascertained. Plaintiff is informed and believes and thereon alleges that each fictitiously named defendant is intentionally or negligently responsible in some manner for the occurrences herein alleged, and plaintiff's injuries as alleged herein were proximately caused by those defendants' intentional or negligent misconduct. Each reference in this complaint to "defendant," "defendants," or a specifically named defendant refers also to all defendants sued under fictitious names.

25 Plaintiff Is Informed and believes and thereon alleges that at all times herein mentioned that each of the defendants, including all defendants sued under fictitious names, were the agents and employees of each of the remaining defendants, and in doing the things herein alleged, were acting within the course and scope of this agency and employment.

C. Causes of Action (You may attach additional pages alleging other causes of action and the facts supporting them if necessary.)

Count 1: The following civil right has been violated: FIRST Cause of Action.
Infliction of Cruel OR Unusual Punishment (E.g., right to medical care, access to courts, conditions of confinement, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 1. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, by name, did to violate the right alleged in Count 1.]

(AS TO All Defendants)

- ②6 Plaintiff Incorporates by reference the allegations contained in Paragraphs 1 through 25 of this complaint as is fully set forth herein.
- ②7 In acting as alleged in this complaint, defendants, and each of them subjected plaintiff to unnecessary and wanton infliction of physical injury, pain and emotional distress.
- ②8 In acting as alleged in this complaint, defendants, and each of them, violated Plaintiff's right to be free of cruel and unusual punishment, guaranteed by U.S. Constitution.
- ②9 As a direct and proximate result of defendants, and each of them, actions as alleged in this complaint, plaintiff has suffered injury, pain, and emotional distress.
- ③0 In acting as alleged in this complaint, defendants, and each of them, acted knowingly, willfully, and maliciously, and with reckless and callous disregard for Plaintiff's rights.
- ③1 In acting as alleged in this complaint, defendants, and each of them, acted in with a willful and conscious disregard of the rights and safety of plaintiff, so as to constitute malicious oppression, entitling plaintiff to an award of exemplary damages in an amount appropriate to punish and to set example of defendants.

second cause of action

The following civil right has been violated:

Infliction of cruel or unusual punishment (Denial of medical
CARE)

(As to all defendants)

- (32) Plaintiff Incorporates by reference the allegations contained in paragraphs 1 through 31 of this complaint as if fully set forth herein.
- (33) In acting as alleged in this complaint, defendants, and each of them, acted with a deliberate indifference to plaintiff's serious medical needs as well as ignored the unsanitary, unhealthy and unsafe conditions plaintiff was being housed in during his cage confinement.
- (34) In acting as alleged in this complaint, defendants violated plaintiff's right to be free of cruel and unusual punishment, guaranteed by U.S. Constitution.
- (35) As a direct and proximate result of defendants' actions as alleged in this complaint, plaintiff has suffered injury, pain, and emotional distress.
- (36) In acting as is alleged in this complaint, defendants acted knowingly, willfully, and maliciously, and with reckless and callous disregard for plaintiff's rights.
- (37) In acting as is alleged in this complaint, defendants, and each of them, acted in with a willful and conscious disregard of the rights and safety of plaintiff, so as to constitute malice or oppression, entitling plaintiff to an award of exemplary damages in an amount appropriate to punish and to set example of defendants.

(38) THIRD Cause of Action

Willful Inhumanity or Oppression Toward Prisoner

(As to All defendants)

Plaintiff Incorporates by reference the Allegations contained in paragraphs 1 through 37 of this complaint as if fully set forth herein.

1 (39) In acting as alleged in this complaint, defendants, and each of
2 them, acted in a willfully inhumane or oppressive manner towards
3 plaintiff.

4 (40) As a direct and proximate result of defendants actions as described
5 in this complaint, plaintiff has suffered injury, pain, and
6 emotional distress.

7 (41) In acting as is alleged in this complaint, defendants, and each of them,
8 acted in with a willful and conscious disregard of the rights and
9 safety of plaintiff, so as to constitute malice or oppression,
10 entitling plaintiff to an award of exemplary damages in an amount
11 appropriate to punish and to set example of defendants.

12 (42)

13 FOURTH CAUSE OF ACTION

14 UNAUTHORIZED Punishment of Prisoner

15 (As To All Defendants)

16 plaintiff incorporates by reference the allegations contained
17 in paragraphs 1 through 41 of this complaint as if fully set
18 forth herein.

19 (43) In acting as alleged in this Complaint, defendants, and each of
20 them, imposed a punishment upon plaintiff which was not
21 authorized by the Warden of the prison or the Director of
22 Corrections.

23 (44) As a direct and proximate result of defendants actions as
24 described in this complaint, plaintiff has suffered injury, pain,
25 and emotional distress as described in this complaint.

26 (45) In acting as is alleged in this complaint, defendants, and each
27 of them, acted in with a willful and conscious disregard of the
28 rights and safety of plaintiff, so as to constitute malice or
oppression, entitling plaintiff to an award of exemplary damages
in an amount appropriate to punish and set example of defendants

Fifth Cause of ActionPROHIBITED Punishment of PRISONER AND/OR LACK of
CARE TOWARD PRISONER

(As To All Defendants)

- (46) plaintiff incorporates by reference the allegations contained in paragraphs 1 through 45 of this complaint as is fully set forth herein.
- (47) In acting as alleged in this complaint, defendants, and each of them, imposed prohibited punishment upon plaintiff, or aided, abetted or contributed to the prohibited punishment imposed upon plaintiff.
- (48) In acting as alleged in this complaint, defendants displayed a lack of care toward plaintiff, or aided, abetted or contributed to the lack of care displayed towards plaintiff.
- (49) As a direct and proximate result of defendants actions as described in this complaint, plaintiff has suffered injury, pain, and emotional distress.
- (50) In acting as is alleged in this complaint, defendants, and each of them, acted in with a willful and conscious disregard of the rights and safety of plaintiff, so as to constitute malice or oppression entitling plaintiff to an award of exemplary damages in an amount appropriate to punish and set example of defendants.

SIXTH CAUSE OF ACTIONIntentional Infliction of Emotional Distress

(As To All Defendants)

- (51) plaintiff incorporates by reference the allegations contained in paragraphs 1 through 50 of this complaint as is fully

set forth herein.

- (52) In doing the acts alleged herein, defendants, and each of them, engaged in outrageous and/or extreme conduct directed at plaintiff.
- (53) In doing the acts as alleged herein, defendants acted with the intention of causing, or reckless disregard of the probability of causing, emotional distress to plaintiff.
- (54) Plaintiff suffered severe emotional distress that was actually and proximately caused by the outrageous conduct of defendants.

SEVENTH CAUSE OF ACTION (As to All Defendants)

Negligent INFLICTION OF EMOTIONAL DISTRESS

- (55) Plaintiff Incorporates by reference the allegations contained in paragraphs 1 through 54 of this complaint as if fully set forth herein.
- (56) Defendants had a legal duty to use due care with plaintiff.
- (57) In doing the acts alleged herein, defendants breached that duty.
- (58) Plaintiff suffered severe emotional distress that was actually and proximately caused by defendant's breach of duty.

EIGHTH CAUSE OF ACTION

Negligent Training or SUPERVISION

(As to Defendants CDCK, Director, CDCK and Mike Evans)

- (59) Plaintiff Incorporates by reference the allegations contained in paragraphs 1 through 58 of this complaint as full set forth herein.

1 (60) Plaintiff Is Informed and believes and thereon alleges
2 that, In doing the acts as heretofore alleged, Defendants
3 CDCR, Director CDCR, and Mike Evans, knew, or In the
4 exercise of reasonable diligence should have known,
5 that defendant correctional employees at SVSP were
6 neither qualified nor able to properly provide custodial
7 supervision and protection to the inmates therein as
8 evident by the treatment of plaintiff described In this
9 Complaint and that an undue risk to persons such as
10 Plaintiff would exist because of this lack of ability unless
11 Defendants CDCR, Director CDCR, and Mike Evans
12 adequately trained and supervised the named defendants
In the exercise of the tasks of their employment.

13 (61) Plaintiff Is Informed and believes that defendants received
14 a minimal amount of training at the employers training
15 academy which did not Include Instruction relating to the
16 proper housing of inmates or their most basic civil & human
17 rights, Including those of the plaintiff.

18 (62) Defendants CDCR, Director CDCR, and Mike Evans
19 knew or should have known that lack of training
20 or supervision my result In inmates, Including
21 plaintiff, being treated In the manner described herein.
22

23 (63) Notwithstanding the knowledge that the defendants at
24 SVSP were neither qualified nor able to provide proper
25 custodial supervision and protection to inmates Defendants
26 CDCR, Director CDCR, And Mike Evans did not adequately
27 train or supervise the defendants at SVSP In the
28 performance of their duties.

1 (64) THE failure of Defendants COCR, DIRECTOR COCR,
2 and Mike EVANS to adequately train and supervise
3 defendant correctional employees was the proximate
4 cause of plaintiff's injury, "but for" this failure to
5 properly train or supervise the injuries to plaintiff
6 described herein would not have occurred. HAD
7 Defendants COCR, DIRECTOR COCR, and Mike EVANS
8 properly trained or supervised the defendants in
9 the proper performance of their duties the injury to
10 plaintiff would not have occurred.

11
12 (65) Despite this advance knowledge, Defendants COCR,
13 DIRECTOR COCR, and Mike EVANS allowed defendants
14 at SVSP to perform custodial supervision and
15 protection to inmates in conscious disregard of the
16 rights and safety of others. As a result of this conscious
17 disregard of the rights of plaintiff, an award of punitive
18 damages against Defendants COCR, DIRECTOR COCR,
19 and Mike EVANS is warranted.

20
21 NINTH CAUSE OF ACTION

22 Respondeat Superior

23 (As to Defendant COCR)

24 (66) plaintiff incorporates by reference the allegations
25 contained in paragraphs 1 through 65 of this complaint
26 as if fully set forth herein.

27
28 (67) At all times herein mentioned, defendants were the

1 and employees of COCR, and In claiming the acts herein
2 described and referred to, were acting in the course
3 and within the scope of their authority as agents and
4 employees, and In the transaction of the business of the
5 employment or agency. Defendant COCR is, therefore,
6 liable to the plaintiff for the acts of defendants as
7 alleged herein

8 9 STATEMENT OF CAUSATION

10 (68) Plaintiff Incorporates by reference the allegations contained
11 In paragraphs 1 through 67 of this Complaint as if fully
12 set forth herein.

13 (69) As a proximate result of the acts of defendants alleged
14 In the first through ninth causes of action, plaintiff was
15 hurt and Injured in his health, strength, and activity,
16 sustaining Injury to his nervous system and person, all
17 of which have caused and continue to cause plaintiff
18 great mental, physical and nervous pain and suffering.
19 Plaintiff is Informed and believes and thereon alleges
20 that these Injuries will result In some permanent disability
21 to him.

22 As a result of these Injuries, plaintiff has suffered general
23 damages.

24 (70) As a further proximate result of the acts of defendants,
25 plaintiff has Incurred, and will continue to incur, medical
26 and related expense. The full amount of these expenses is
27 not known to plaintiff at this time.

28 (71) The aforementioned conduct of defendants was willful &
malicious and was Intended to oppress and cause Injury to

1 Plaintiff: Plaintiff is therefore entitled to an award of
2 Punitive or exemplary damages.
3

4 WHEREFORE, plaintiff prays judgment on all causes
5 of actions against defendants as
6

follows:

- 7 1. For general damages according to Proof;
- 8
- 9 2. For medical and related expenses according to Proof;
- 10
- 11
- 12 3. For punitive or exemplary damages;
- 13
- 14 4. For Interest as allowed by law;
- 15
- 16 5. For costs of suit herein Incurred and any attorney
17 fees, and
- 18 6. For such other and further relief as the Court
19 may deem proper.
20

21 Dated: Aug 13, 2007
22

23 Kevin Burton

24 KEVIN BURTON
25
26
27
28

ALLEGATIONS

Plaintiff Incorporates by reference the Allegations contained in Paragraphs 1 through 71 of this complaint as if fully set forth herein.

(72) On January 11, 2005, plaintiff was ordered placed in administrative segregation (ad-seg) at Salinas Valley State Prison (SVSP) after prison officials received information (which later proved to be untrue) that Plaintiff planned to assault prison staff.

(73) Upon being taken to ad-seg on January 11, 2005, plaintiff was told he would be placed in a cell with another inmate.

(74) Plaintiff refused to be celled with the inmate chosen by prison officials.

(75) In response, Defendant % Carrasco placed plaintiff in holding cage (cage) in ad-seg area, while Defendants SGT. BRUNCATO and % PEREZ were present.

(76) Plaintiff immediately informed Defendant % CARRASCO, Defendant SGT BRUNCATO and Defendant C/O PEREZ that he had a pre-existing back and leg conditions that would make the cage very uncomfortable. Although acknowledging plaintiff's statements, none of these defendants took any action known to plaintiff to confirm his pre-existing medical issues or alleviate his potential suffering.

1 (77) Plaintiff was told by Defendant C/O Perez,
2 In the presence of C/O CARRASCO, that Plaintiff
3 would stay in the cage until he accepted a
4 cellmate.

5 (78) Plaintiff spent the next eight day and seven
6 nights in the cage.

7 (79) Cages are used for temporary housing of a prisoner,
8 usually no more than a hour or so in duration.
9 Plaintiff expected that he would be treated in
10 a similar manner.

11 (80) Cages resemble see-through phone booths. They
12 are open air with steel or similar metal honey comb
13 type construction to allow constant supervision.
14 They are approximately four feet by two feet and
15 rise to about eight feet in height. There is no
16 room to sit or lay down or move about in cage.
17 There is no bathroom facility, or overhead light
18 in cage.

19 (81) Upon entry into cage plaintiff had on a pair of
20 boxer shorts and a pair of socks.

21 (82) Plaintiff was never issued new or additional
22 clothing throughout the ordeal.

23 (83) Upon entry into cage plaintiff could both smell and see a milk
24 carton with urine in it on the floor and dried feces on the
25 floor and cage sides.

26 (84) Plaintiff informed Defendants C/O CARRASCO, C/O PEREZ,
27 and SGT. BRUNCATO of the urine and feces, as they
28 were all present as plaintiff was placed in the cage
and could see and smell the human waste for
themselves.

1 (85) After multiple requests by plaintiff, Defendant %CARRASCO
 2 ordered plaintiff to step out of the cage; placed a latex glove
 3 on her hand and then removed the urine filled milk
 4 Carton from cage. No effort was ever made by any
 5 defendant to remove the dried feces from the cage or to
 6 otherwise clean it in any way. Plaintiff was then ordered
 7 to step back into the cage by Defendant %CARRASCO.

8 (86) Plaintiff objected to getting back in the cage with the
 9 dried feces still in and around the cage. Defendant
 10 ordered plaintiff back into the cage or physical force
 11 would be used to place him back into the cage.
 12 Plaintiff complied.

13 (87) Shortly after being placed in the cage plaintiff
 14 tried to reason with Defendant SGT. BRUNCATO.
 15 Plaintiff complained that he was being punished for
 16 being placed in the cage; that conditions were
 17 inhumane, and that defendant %CARRASCO threatened
 18 to plaintiff about accepting a cell mate or staying in
 19 the cage was inappropriate. SGT. BRUNCATO responded
 20 by telling plaintiff that he would remain in the cage
 21 "until we decide to let you out" and to "spell my name right"
 22 on any complaint plaintiff filed.

23 (88) Shortly after being placed in the cage a woman
 24 identifying herself as a psychiatric Department Employee
 25 spoke to plaintiff. Plaintiff told this woman that the
 26 conditions were terrible and unhealthy and he should
 27 not be made to stay in the cage. Plaintiff showed this
 28 woman the feces in the cage. Plaintiff also
 told this woman that given his current state of mind
 and stress, he could not be with a cell mate and in
 particular not one he did not know. Plaintiff informed

1 this woman he needed her help to get out of the
 2 Inhumane conditions prison guards were placing him in.
 3 She left without any help being rendered.

4 (89) On the late evening of January 11, 2005, or the early
 5 morning of January 12, 2005, plaintiff was provided
 6 a bed sheet by Defendant C/O LIMA on first watch after
 7 he requested something for the cold.

8 (90) On many occasions each day plaintiff would speak
 9 to prison staff walking by the cage and ask for help.
 10 Indifference was the only response. In total plaintiff
 11 sought help and/or complained to nearly thirty
 12 different prison staff over his eight day and seven
 13 night ordeal in the cage without any actual effort ever
 14 seen by any of them to alleviate his suffering (save
 15 Defendant C/O LIMA providing a bed sheet).

16 (91) Plaintiff specifically notified Defendants Lt. KRENKE;
 17 SERGEANT RAMIREZ, SERGEANT BRUNCATO, SERGEANT
 18 O'KEENE, C/O CARRASCO, C/O SILVA, C/O CONTRERAS, C/O
 19 PHILLMON, C/O WILSON, C/O HORRENCE, C/O PEREZ, C/O
 20 GRAYWOLD, and C/O Goodhume of the Inhumane conditions
 21 and of his pain and suffering numerous times during
 22 the ordeal in the cage and none responded with any
 23 aid whatsoever.

24 (92) On or about the second day of plaintiff cage confinement
 25 Defendant MTA CAUNTAY made rounds and plaintiff
 26 complained of a swollen leg and severe back and leg
 27 problems, and also detailed the overall Inhumane
 28 conditions which included showing her the dried feces
 in and around the cage. Plaintiff was asked to fill out a
 sick call slip (used to request to see doctor) by
 Defendant MTA CAUNTAY, who then helped plaintiff

1 fill out the slip as she realized plaintiff was not able
2 to do so on his own. Plaintiff told defendant MTA CAUNTAY
3 of his pre-existing medical problems with his leg and
4 back which the prison was unable to that point to
5 treat effectively. Defendant MTA CAUNTAY left with
6 the sick call slip she filled out for plaintiff but without
7 any promise of help.

8 (93) On or about the third day of plaintiff's cage confinement
9 Defendant MTA Garcia made rounds and plaintiff
10 Complained of a swollen leg and severe back and
11 leg problems, as well as about the Inhumane conditions
12 he was living in. Plaintiff asked Defendant MTA Garcia
13 about the status of his previously submitted sick call
14 slip and asked when the doctor would be there to see him.
15 Defendant MTA GARCIA told plaintiff she would look into plaintiff
16 complaints. Plaintiff was asked to fill out a
17 sick call slip by Defendant MTA GARCIA, who then helped
18 plaintiff fill out the slip as she realized plaintiff was not
19 able to do so on his own. Defendant MTA Garcia left with
20 the sick call slip she filled out for plaintiff but without
21 any promise of help.

22 (94) At some point during plaintiff ordeal Defendant MTA
23 Ziegler was observed by plaintiff in the unit and plaintiff
24 Complained about his conditions of confinement and
25 health and asked about when the doctor would be there
26 to see him, noting he had submitted two requests to see
27 the doctor to other MTAs. Defendant MTA Ziegler told
28 plaintiff "there is nothing I can do" and walked away.

(95) on many occasions during plaintiff cage confinement

Defendant MTA Moss made rounds. Plaintiff complained to Defendant MTA Moss on numerous occasions about both his health and the Inhumane conditions and was never given any help.

96 Plaintiff was normally escorted to the bathroom by a C/O once or twice each day, and spent much of his time in the cage having to fight off bowel movements for fear of having to defecate or urinate in the cage. Usually plaintiff was made to wait for more than an hour after a request to use the bathroom was made and plaintiff was then pressured to hurry up by the escorting officer(s) when he was taken to the bathroom.

97 Plaintiff never received a shower or any opportunity to clean himself save on one occasion when a C/O allowed him a few extra moments to clean up in the sink at the bathroom plaintiff had been escorted to (without towels or other hygiene materials). This "clean up" lasted about 30 to 60 seconds and constituted the only time during the cage ordeal plaintiff was allowed to wash himself.

98 Plaintiff never received any physical exercise during the cage ordeal.

99 During the cage ordeal plaintiff was taunted by defendant C/O PEREZ, who would ask plaintiff "how do you like it in there" and would ask "are you comfortable" while smiling and/or laughing. On one occasion Defendant C/O PEREZ ran his baton across the cage screen to make excessive noise and wake plaintiff up after he

1 had managed to fall asleep.

2 (100) During the cage ordeal, plaintiff suffered excruciating
3 pain and multiple cramps in his legs and back. There
4 was no ability for plaintiff to stretch or otherwise
5 attempt to alleviate the cramps or pain. By the end
6 of the cage ordeal plaintiff was unable to sleep
7 as his physical pain and cramping prevented him
8 from doing so.

9 (101) During the cage ordeal, particularly near its end,
10 plaintiff began to hallucinate and call out to his
11 family members or friends he would see in those
12 hallucinations.

13 (102) Plaintiff was released from the cage on January 18,
14 2005.

15 (103) Plaintiff was not seen by a doctor until
16 approximately January 25, 2005. (two weeks
17 after plaintiff first notified medical staff of his
18 problems, AND A WEEK AFTER plaintiff was released from
19 the cage).

20 (104) Upon seeing a doctor, plaintiff was immediately
21 placed on medications to alleviate pain and swelling
22 caused by his ordeal in the cage.

23 (105) Plaintiff requested counseling from psychiatric
24 staff after his ordeal, and is currently under
25 psychiatric care.

26 (106) Plaintiff filed a claim with the Witness Compensation
27 and Government Claims Board. THE claim was
28 denied Aug 18, 2005.

due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 3. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Count 3.]

D. Previous Lawsuits and Administrative Relief

1. Have you filed other lawsuits in state or federal courts dealing with the same or similar facts involved in this case? ☒ Yes ☐ No.

If your answer is "Yes", describe each suit in the space below. [If more than one, attach additional pages providing the same information as below.]

(a) Parties to the previous lawsuit:

Plaintiffs: KEVIN BURTON

Defendants: Please See Attached (6A Defendants)

(b) Name of the court and docket number: SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF MONTEREY, CASE No. M2071

(c) Disposition: [For example, was the case dismissed, appealed, or still pending?] Case was dismissed on THE statute of limitations

(d) Issues raised:

Violation of Constitutional and Statutory rights.

(e) Approximate date case was filed: Dec 08, 2006

(f) Approximate date of disposition: June 15, 2007

2. Have you previously sought and exhausted all forms of informal or formal relief from the proper administrative officials regarding the acts alleged in Part C above? [E.g., CDC Inmate/Parolee Appeal Form 602, etc.] ? ☒ Yes ☐ No.

If your answer is "Yes", briefly describe how relief was sought and the results. If your answer is "No", briefly explain why administrative relief was not sought.

Inmate Appeal Form 602 Local Log NO.. SVSP-05-00587

IAB CASE NO.. 0507338

Department of Corrections and Rehabilitation

Inmate Appeals Branch

DIRECTOR'S Level Review

P.O. Box 942883

Sacramento, CA 94283-0001

STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS AND REHABILITATION
INMATE APPEALS BRANCH
P. O. BOX 942883
SACRAMENTO, CA 94283-0001

DIRECTOR'S LEVEL APPEAL DECISION

Date: **MAR 27 2006**

In re: Burton, C-38062
California Substance Abuse Treatment Facility and
State Prison at Corcoran
P.O. Box 7100
Corcoran, CA 93212-7100

IAB Case No.: 0507338

Local Log No.: SVSP 05-00587

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner P. Enriquez, Facility Captain. All submitted documentation and supporting arguments of the parties have been considered.

I APPELLANT'S ARGUMENT: It is the appellant's position that he was placed in a four by two foot holding cell that was dirty, it had feces and urine spread about, and he was left in the cell for seven days without a place to sleep, without a mattress or bed linens or bathroom facilities. He contends that he informed staff of his pain and suffering and he was not provided medical assistance until several days later. He states that when he was finally seen by the medical staff he was prescribed three pain medications. He states that he was a victim of cruel and unusual punishment. He requests that all responsible parties be made to answer on both the civil rights and criminal violations, that he be interviewed by upper administrators and that no reprisals be taken against him for filing this appeal.

II SECOND LEVEL'S DECISION: The reviewer found that the allegations of misconduct have been referred for investigation by the Investigative Services Unit (ISU). The appellant was to be advised of the ISU findings upon completion of the investigation. He was advised that inmates could not dictate staff disciplinary action and in the event that employee misconduct was detected, the appropriate corrective action or adverse action would be initiated by the administration. However, any personnel action taken would be confidential and would not be disclosed to the public, other employees or to inmates. The appeal was granted in part by the Second Level of Review.

III DIRECTOR'S LEVEL DECISION: Appeal is denied.

A. FINDINGS: Upon review of the documentation submitted, it is determined that the appellant's allegations have been reviewed and evaluated by administrative staff and the matter has been referred to the institution's ISU for further review.

In the event that staff misconduct is substantiated, the institution will take the appropriate course of action. All staff personnel matters are confidential in nature and not privy to the inquiries of other staff, the general public or the inmate population, and would not be released to the appellant. However, upon completion of final review, or culmination of an investigation, the appellant will be notified by the respective investigative body that an inquiry has been completed and whether the complaint was unsubstantiated or substantiated.

Although the appellant has the right to submit an appeal as a staff complaint, the request for administrative action regarding staff or the placement of documentation in a staff member's personnel file is beyond the scope of the appeals process.

The appellant can submit a written request to the ISU if wishes to be informed of the current status of his complaint. At the DLR the appellant has not provided any information that reprisals were taken against him for filing this appeal.

BURTON, C-38062
CASE NO. 0507338
PAGE 2

On March 16, 2006, the appeals examiner contacted the Salinas Valley State Prison (SVSP) Appeals Coordinator Correctional Counselor II (CC-II) P. Variz, regarding the status of the appellant's staff complaint. CC-II Variz stated that the complaint was accepted for investigation by the Office of Internal Affairs as a Category II with Log #N-2-SVSP-05805. The investigation was given a completion date of July 7, 2005. CC-II Variz was informed by the SVSP ISU that the investigation was still pending/ongoing and there was no approximate date of completion provided to the CC-II.

B. BASIS FOR THE DECISION:

California Penal Code Section: 832.7, 832.8

California Code of Regulations, Title 15, Section: 3004, 3268, 3270, 3391

C. ORDER: No changes or modifications are required by the institution.

This decision exhausts the administrative remedy available to the appellant within CDCR.



N. GRANNIS, Chief
Inmate Appeals Branch

cc: Warden, SATF
Appeals Coordinator, SATF
Appeals Coordinator, SVSP

INMATE APPEAL ASSIGNMENT NOTICE

To: INMATE BURTON, C38062
Current Housing: D8-217

Date: February 7, 2005

From: INMATE APPEALS OFFICE

Re: APPEAL LOG NUMBER: SVSP-D-05-00587

ASSIGNED STAFF REVIEWER: ISU

DUE DATE: 03/21/2005

APPEAL ISSUE: STAFF COMPLAINTS

Inmate BURTON, this acts as a notice to you that your appeal has been sent to the above staff for FIRST level response. If you have any questions, contact the above staff member. If dissatisfied, you have 15 days from the receipt of the response to forward your appeal for SECOND level review.

DELIVERED FEB 11 2005

S. GOMEZ/T. A. VARIZ
CCII/APPEALS COORDINATOR
SALINAS VALLEY STATE PRISON

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

**INMATE/PAROLEE
APPEAL FORM**

CDC 602 (12/87)

Location: Institution/Parole Region

Log No.

Category

2.

2.

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
BURTON, Kevin	C-38062		08-217

A. Describe Problem: On JAN 11, 2005. I WAS PLACED IN Holding Cage on fac. D- Building 8 (A-section) That WAS Appx 4 by 2 feet In area, By % CARASCO. Once In Holding Cage I noticed a milk Carton filled with Urin, there WAS ALSO Urin on the floor & drying feces on the wall and floor. I notified % CARASCO, as well as the Building SARGENT BARRATO? (who was present) of this Inhuman And potentially Health threatening Condition And WAS Ignored. There WAS NO Bathroom facilities running Water OR A place To

If you need more space, attach one additional sheet.

B. Action Requested: That the Responsible parties named unnamed be made To answer on Both civil rights violations, as well as criminal misconduct, and there own Rules & Regulations, C.C.R. title 15, sections 3343(B) 3391 Conduct And cruel & unusual Punishment, And I be Interviewed by upper Administration,

Inmate/Parolee Signature: Korin Burton Date Submitted: 2-3-05 Continue

C. INFORMAL LEVEL (Date Received: REC'D FEB 4 2005)

Staff Response:

Staff Signature:

Date Returned to Inmate:

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature:

Date Submitted:

Note: Property/Funds appeals must be accompanied by a completed

CDC Appeal Number:

Board of Control form BC-1E, Inmate Claim

Additional.

D8-217

Ad/seg

A. Describe problem continued:

sleep. I was Left in this holding cage for seven (7) full days And nights, with no MATTRESS OR clothing other then one (1) pair of Boxers shorts And one (1) PAIR of socks. And did not receive ANY Linen, until 9/0 Lima 1st Watch Issued me one (1) sheet, (on 1-12-05.) I also notified The "M.T.A." That these conditions existed And of the Sever Back And neck pain it WAS CAUSING me. But WAS Not seen until 1-26-05 15 days later. At which time I WAS prescribed four (4) different medications, three (3) for BACK pain & (1) for pain In Right Leg pain, To help Alleviate swelling. The Treatment And Conditions I had to endure WAS both CRUEL AND UNUSUAL, which Is Defined I PART: "An act over a period of time, were an Inmate Is made, To endure Torture, or Intentionally made to under-go great Pain or suffering. The Officers named unnamed are In violation of the above mentioned Acts) AS well AS my Civil Rights And or Criminal Misconduct and there own C.C.R title 15, SECTION 3343, (B) AS well AS SECTION 3391 Conduct. Kevin Burton 2-3-05

B. Action Requested continued:

I ALSO invoke title 15 (C.C.R) that NO

Reprisals Be taken for expereessing my right

To Appeal, please see C.C.R title 15. Sec 3084. (D)

Kevin Burton 2-3-05

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

CDC 1858 (2/97)

RIGHTS AND RESPONSIBILITY STATEMENT

The California Department of Corrections has added departmental language (shown inside brackets, in non-boldface type) for clarification purposes.

Pursuant to Penal Code 148.6, anyone wishing to file an allegation of misconduct by a departmental peace officer must read, sign and submit the following statement:

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER [this includes a departmental peace officer] **FOR ANY IMPROPER POLICE** [or peace] **OFFICER CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS'** [or inmates'/parolees'] **COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN** [or inmate/parolee] **COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.**

IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE. [An inmate/parolee who makes a complaint against a departmental peace officer, knowing it is false, may be issued a serious disciplinary rule violation, in addition to being prosecuted on a misdemeanor charge.]

COMPLAINANT'S PRINTED NAME KEVIN BURTON	COMPLAINANT'S SIGNATURE Kevin Burton	DATE SIGNED 4-8-05	
INMATE/PAROLEE PRINTED NAME KEVIN BURTON	INMATE/PAROLEE'S SIGNATURE Kevin Burton	CDC NUMBER C-38062	DATE SIGNED 4-8-05
RECEIVING STAFF'S PRINTED NAME Paul A. Edwards	RECEIVING STAFF'S SIGNATURE Paul A. Edwards	DATE SIGNED 4-8-05	

DISTRIBUTION:

ORIGINAL -

Public - Institution Head/Parole Administrator

Inmate/Parolee - Attach to CDC form 602

Employee - Institution Head/Parole Administrator

COPY - Complainant

N-11-SVSP-058-05-A

STATE OF CALIFORNIA
ADMINISTRATIVE SEGREGATION UNIT PLACEMENT NOTICE
 CDC 114-D (Rev 10/98)

DEPARTMENT OF CORRECTIONS

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INMATE'S NAME

BURTON

CDC NUMBER

C-38062**REASON(S) FOR PLACEMENT (PART A)**



- ☐ PRESENTS AN IMMEDIATE THREAT TO THE SAFETY OF SELF OR OTHERS
☒ JEOPARDIZES INTEGRITY OF AN INVESTIGATION OF ALLEGED SERIOUS MISCONDUCT OR CRIMINAL ACTIVITY
☒ ENDANGERS INSTITUTION SECURITY ☐ UPON RELEASE FROM SEGREGATION, NO BED AVAILABLE IN GENERAL POPULATION

DESCRIPTION OF CIRCUMSTANCES WHICH SUPPORT THE REASON(S) FOR PLACEMENT:

Inmate Burton (C-38062), on 04-09-05, you are being retained on Administrative Segregation Status and transferred to the Correctional Training Facility (CTF) to protect the integrity of an ongoing investigation. You will remain in ASU pending completion of the investigation, possible disciplinary process and appearance before ICC for future program and housing needs. Your continued confinement in ASU is ordered by Correctional Lieutenant C. Blackstone.

Inmate Burton IS NOT a participant in the Mental Health Services Delivery System.

☐ CONTINUED ON ATTACHED PAGE (CHECK IF ADDITIONAL) ☐ IF CONFIDENTIAL INFORMATION USED, DATE OF DISCLOSURE: / /

DATE OF ASU PLACEMENT 04-09-05	SEGREGATION AUTHORITY'S PRINTED NAME C. BLACKSTONE	SIGNATURE 		TITLE LIEUTENANT
DATE NOTICE SERVED 4/10/2005	TIME SERVED 1815	PRINTED NAME OF STAFF SERVING ASU PLACEMENT NOTICE S. ESPINOZA	SIGNATURE 	STAFF'S TITLE STT
<input type="checkbox"/> INMATE REFUSED TO SIGN		INMATE SIGNATURE		CDC NUMBER

ADMINISTRATIVE REVIEW (PART B)

The following to be completed during the initial administrative review by Captain or higher by the first working day following placement

STAFF ASSISTANT (SA)**INVESTIGATIVE EMPLOYEE (IE)**

STAFF ASSISTANT'S NAME	TITLE	INVESTIGATIVE EMPLOYEE'S NAME	TITLE
IS THIS INMATE: LITERATE? <input type="checkbox"/> YES <input type="checkbox"/> NO FLUENT IN ENGLISH? <input type="checkbox"/> YES <input type="checkbox"/> NO ABLE TO COMPREHEND ISSUES? <input type="checkbox"/> YES <input type="checkbox"/> NO FREE OF MENTAL HEALTH SERVICES DELIVERY SYSTEM NEEDS? <input type="checkbox"/> YES <input type="checkbox"/> NO DECLINING FIRST STAFF ASSISTANT ASSIGNED? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> NOT ASSIGNED		EVIDENCE COLLECTION BY IE <u>UNNECESSARY</u> <input type="checkbox"/> YES <input type="checkbox"/> NO DECLINED ANY INVESTIGATIVE EMPLOYEE <input type="checkbox"/> YES <input type="checkbox"/> NO ASU PLACEMENT IS FOR DISCIPLINARY REASONS <input type="checkbox"/> YES <input type="checkbox"/> NO DECLINED 1ST INVESTIGATIVE EMPLOYEE ASSIGNED <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> NOT ASSIGNED	
Any "NO" requires SA assignment		Any "NO" may require IE assignment	

INMATE WAIVERS

☐ INMATE WAIVES OR DECLINES INTERVIEW WITH ADMINISTRATIVE REVIEWER ☐ INMATE WAIVES RIGHT TO 72 HOURS PREPARATION TIME
☐ NO WITNESSES REQUESTED BY INMATE

INMATE SIGNATURE

DATE

WITNESSES REQUESTED FOR HEARING

WITNESS' NAME	TITLE/CDC NUMBER	WITNESS' NAME	TITLE/CDC NUMBER
WITNESS' NAME	TITLE/CDC NUMBER	WITNESS' NAME	TITLE/CDC NUMBER

DECISION: ☐ RELEASE TO UNIT/FACILITY ☐ RETAIN PENDING ICC REVIEW ☐ DOUBLE CELL ☐ SINGLE CELL PENDING ICC

REASON FOR DECISION:

ADMINISTRATIVE REVIEWER'S PRINTED NAME	TITLE	DATE OF REVIEW	TIME	ADMINISTRATIVE REVIEWER'S SIGNATURE
CORRECTIONAL ADMINISTRATOR'S PRINTED NAME (if necessary)		CORRECTIONAL ADMINISTRATOR'S CO-SIGNATURE (if necessary)		DATE OF REVIEW

Location: Institution/Parole Region

Log No.

Category

INMATE/PAROLEE

APPEAL FORM

CDC 602 (12/87)

1. _____

1. _____

2. _____

2. _____

You may appeal any policy, action or decision, which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
BURTON, Kevin	C-38062	MKTED. 004	D3-222

A. Describe Problem: ON 4-8-05 Appeal Log # SVSP-D-05-00587, was heard by Lt. Middlebrook (SVSP ISU), Paul Edwards, Internal affairs (Sacramento) and Abel Ramirez, (Office of Inspector General.) While at SVSP. I have been unable to locate Appeal since Interview, after several attempts which include, writing to SVSP Appeal Coordinator S. Gomez, and T.A. Variz, on 4-20-05. In Which I'm yet to receive any response. I have attempted To Contact the Internal affairs special Agent (Sacramento) Paul Edwards, Who Conducted Investigation, (Appeal 1st level response)

If you need more space, attach one additional sheet.

B. Action Requested: That Appeal log # S.V.S.P.-D-05-00587, be returned, A response, That I can Proceed To 2nd level of Appeal and or Exhaust my administrative remedies, In accord with C.C.R. title 15, Section 3084.6. Appeal Time Limits To Part: If an exceptional delay, appellant shall be Informed In Writing for the

Inmate/Parolee Signature: Kevin Burton

Date Submitted: 6-9-2005

C. INFORMAL LEVEL (Date Received: _____)

Staff Response: _____

RECEIVED
JAN - 9 2006
INMATE APPEALS
BRANCH

Staff Signature: _____

Date Returned to Inmate: _____

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification Chron, CDC 128, etc.) and submit to the Institution/ Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

RECEIVED
JUL 29 2005
INMATE APPEALS
BRANCH

Signature: _____

Date Submitted: _____

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim.

CDC Appeal Number:



In the Appeal: Additional

BURTON, Kevin *C-38062

03-222

Describe Problem, Continued:

Without any response. Can you please track appeal mentioned, so I can proceed to next level, and or exhaust my administrative remedies.

Action Requested, Continued:

delay and the estimated completion date.

Kevin Burton

6-9-05

INMATE APPEALS BRANCH

1515 S Street, Sacramento, CA 95814
P.O. Box 942883
Sacramento, CA 94283-0001




September 28, 2005

Burton, CDC #C-38062
Salinas Valley State Prison
P.O. Box 1020
Soledad, CA 93960-1020

Re: Institution Appeal Log #SVSP-D-05-00587 Staff Complaint

Dear Mr. Burton:

The Inmate Appeals Branch has received your correspondence regarding the above matter. It has been forwarded to the Appeals Coordinator at your location for further review. They will contact you directly in order to further resolve your appeal issues.


N. GRANNIS, Chief
Inmate Appeals Branch

INMATE APPEALS BRANCH

1515 S Street, Sacramento, CA 95814
P.O. Box 942883
Sacramento, CA 94283-0001



September 28, 2005

Appeals Coordinator
Salinas Valley State Prison
P.O. Box 1020
Soledad, CA 93960-1020


REC'D OCT 06 2005

RE: BURTON, CDC #C-38062 Institution Appeal Log #SVSP-D-05-00587 Staff
Complaint

To the Appeals Coordinator:

This appeal appears not to have been processed within the regulatory time constraints. Please ensure that the inmate is informed as to the reason for delay in processing..

Please respond directly to the appellant. No response to this office is necessary.


N. GRANNIS, Chief
Inmate Appeals Branch

STATE OF CALIFORNIA
CDC 1030 (12/86)

DEPARTMENT OF CORRECTIONS

D8-217L

CONFIDENTIAL INFORMATION DISCLOSURE FORM

INMATE NUMBER: C 38062 INMATE NAME: BURTON

1) Use of Confidential Information.

Information received from a confidential source(s) has been considered in the:

a) CDC-115, Disciplinary Report dated _____ submitted by _____

STAFF NAME, TITLE

b) CDC-114-D, Order and Hearing for Placement in Segregated Housing dated 1/10/05

2) Reliability of Source.

The identity of the source(s) cannot be disclosed without endangering the source(s) or the security of the institution.

This information is considered reliable because:

- a) ☐ This source has previously provided confidential information which has proven to be true.
- b) ☐ This source participated in and successfully completed a Polygraph examination.
- c) ☐ More than one source independently provided the same information.
- d) ☐ This source incriminated himself/herself in a criminal activity at the time of providing the information.
- e) ☐ Part of the information provided by the source(s) has already proven to be true.
- f) ☐ Other (EXPLAIN) _____

3) Disclosure of information received.

The information received indicated the following: THAT YOU INMATE BURTON ARECONTEMPLATING TO PHYSICALLY ASSAULT C/O J. HALL & Sgt.J. Perez

(If additional space needed, attach another sheet.)

- 4) Type and current location of documentation, (for example: CDC-128-B of 5-15-86 in the confidential material folder). CONFIDENTIAL MEMORANDUM DATED 1/10/05, LOCATED IN
CONFIDENTIAL SECTION OF CENTRAL FILE

STAFF SIGNATURE, TITLE

DATE DISCLOSED

DISTRIBUTION: WHITE — Central File; YELLOW — Inmate; PINK — Institution Use

STATE OF CALIFORNIA
ADMINISTRATIVE SEGREGATION UNIT PLACEMENT NOTICE
CDC 114-D (Rev 10/98)

DEPARTMENT OF CORRECTIONS

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GOLDENROD - INMATE (1ST COPY)

INMATE'S NAME

BURTON

CDC NUMBER

C-38062

REASON(S) FOR PLACEMENT (PART A)

- ☐ PRESENTS AN IMMEDIATE THREAT TO THE SAFETY OF SELF OR OTHERS
☐ JEOPARDIZES INTEGRITY OF AN INVESTIGATION OF ALLEGED SERIOUS MISCONDUCT OR CRIMINAL ACTIVITY
☒ ENDANGERS INSTITUTION SECURITY ☐ UPON RELEASE FROM SEGREGATION, NO BED AVAILABLE IN GENERAL POPULATION

DESCRIPTION OF CIRCUMSTANCES WHICH SUPPORT THE REASON(S) FOR PLACEMENT: Inmate BURTON, C-38062, on 01-10-05, you are being placed in Administrative Segregation. On 01-08-05, Facility A staff received confidential information (see CDC-1030), that you are contemplating to physically assault Correctional Officer J. Hall, and Sgt. J. Perez. In view of this alleged threat, your continued presence on Facility A is deemed a threat to the safety and security of the institution. You will remain on Ad-Seg. status pending an investigation into this alleged threat (to be conducted by Sgt. M. Gomez, and completed by 02-09-05), possible adjudication of the disciplinary process, and ICC review for future programming and housing needs. This placement is ordered by Lt. D. Wikoff, and it may affect your custody level, credit earning, privilege group and visiting status. This placement was delayed due to bed unavailability in Ad-Seg. on 01-08-05. You are not a participant in the Mental Health Services Delivery System at any level of care.

☐ CONTINUED ON ATTACHED PAGE (CHECK IF ADDITIONAL) ☒ IF CONFIDENTIAL INFORMATION USED DATE OF DISCLOSURE: 01 08 05

DATE OF ASU PLACEMENT 01-10-05	SEGREGATION AUTHORITY'S PRINTED NAME D. Wikoff	SIGNATURE <i>D. Wikoff</i>	TITLE Lieutenant
DATE NOTICE SERVED 1/10/05	TIME SERVED 1945	PRINTED NAME OF STAFF SERVING ASU PLACEMENT NOTICE M. MILOR	SIGNATURE <i>M. Milor</i>
<input checked="" type="checkbox"/> INMATE REFUSED TO SIGN		INMATE SIGNATURE	CDC NUMBER C/D

ADMINISTRATIVE REVIEW (PART B)

The following to be completed during the initial administrative review by Captain or higher by the first working day following placement

STAFF ASSISTANT (SA)		INVESTIGATIVE EMPLOYEE (IE)	
STAFF ASSISTANT NAME <i>N/A</i>	TITLE	INVESTIGATIVE EMPLOYEE'S NAME <i>N/A</i>	TITLE
IS THIS INMATE:			
LITERATE?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	EVIDENCE COLLECTION BY IE UNNECESSARY	<input type="checkbox"/> YES <input type="checkbox"/> NO
FLUENT IN ENGLISH?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	DECLINED ANY INVESTIGATIVE EMPLOYEE	<input type="checkbox"/> YES <input type="checkbox"/> NO
ABLE TO COMPREHEND ISSUES?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	ASU PLACEMENT IS FOR DISCIPLINARY REASONS	<input type="checkbox"/> YES <input type="checkbox"/> NO
FREE OF MENTAL HEALTH SERVICES DELIVERY SYSTEM NEEDS?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	DECLINED 1ST INVESTIGATIVE EMPLOYEE ASSIGNED	<input type="checkbox"/> YES
DECLINING FIRST STAFF ASSISTANT ASSIGNED?	<input type="checkbox"/> YES		
<input checked="" type="checkbox"/> NOT ASSIGNED Any "NO" requires SA assignment		<input checked="" type="checkbox"/> NOT ASSIGNED Any "NO" may require IE assignment	

INMATE WAIVERS

- ☐ INMATE WAIVES OR DECLINES INTERVIEW WITH ADMINISTRATIVE REVIEWER ☐ INMATE WAIVES RIGHT TO 72 HOURS PREPARATION TIME
☒ NO WITNESSES REQUESTED BY INMATE INMATE SIGNATURE *Refused to Sign* DATE 1-12-05

WITNESSES REQUESTED FOR HEARING

WITNESS' NAME	TITLE/CDC NUMBER	WITNESS' NAME	TITLE/CDC NUMBER
WITNESS' NAME	TITLE/CDC NUMBER	WITNESS' NAME	TITLE/CDC NUMBER

DECISION: ☐ RELEASE TO UNIT/FACILITY ☒ RETAIN PENDING ICC REVIEW ☐ DOUBLE CELL ☐ SINGLE CELL PENDING ICC

REASON FOR DECISION:

Endangers inst. future security

ADMINISTRATIVE REVIEWER'S PRINTED NAME <i>Theresa</i>	TITLE Capt (A)	DATE OF REVIEW 1-12-05	TIME 2050	ADMINISTRATIVE REVIEWER'S SIGNATURE <i>Theresa</i>
CORRECTIONAL ADMINISTRATOR'S PRINTED NAME (if necessary)		CORRECTIONAL ADMINISTRATOR'S CO-SIGNATURE (if necessary)		DATE OF REVIEW

SUPPLEMENT PAGE

RE: Salinas Valley State Prison
Second Level Reviewer's Response
Appeal Log # **SVSP-D-05-05-587**

Date: Thursday, October 13, 2005

Inmate: BURTON C38062

APPEAL ISSUE: STAFF COMPLAINT

APPEAL DECISION: PARTIALLY GRANTED

APPEAL RESPONSE: You have filed a Staff Complaint against C/O J. Hernandez alleging staff misconduct. The Informal Level Response and the First Level Response have been waived in accordance with the Departmental Operations Manual (DOM) Section 31140 and Administrative Bulletin # 98/10.

Your allegation of misconduct has been referred for investigation. Your appeal is currently being reviewed by ISU; you will be advise of the findings of the investigation upon completion.

However, be advised, inmates do not dictate staff disciplinary action. In the event that employee misconduct is detected, appropriate corrective or adverse action will be initiated or recommended by administration. However, any personnel action taken shall remain confidential and will not be disclosed to inmates, other employees, or the general public.

For the reasons cited, your action requested is being **PARTIALLY GRANTED** at the Second Level of Review.



L.E. SCRIBNER
Chief Deputy Warden
Salinas Valley State Prison

WAS ISSUED
ON 12-29-05
Institutional
mail, to this
Inmate, BURTON
#C-38062
CSATF-SP D3-222
By 9/8 Ruff
Witnessed By
Inmate CARTER
D-17070
CSATF-SP
D3-222
J. Carter

D3-222

STA1 CALIFORNIA

DEPARTMENT OF CORRECTIONS

INMATE/PAROLEE
APPEAL FORM
CDC 603 (12/87)

Location: Institution/Parole Region

Log No.

Category

2 Verif d

1. 05-0557

7

You may appeal any policy, action or decision which has a significant adverse effect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
BURTON Kevin	C-38062		08-217

A. Describe Problem: ON JAN 11 2005 I WAS PLACED IN Holding Cage on fac D- Building 8 (A-section) That WAS Appx 4 by 2 feet In area By CARASCO. Once In Holding Cage I noticed a milk Carton filled with Urin, there WAS ALSO Urin on the floor & drying feces on the wall and floor I notified CARASCO as well as the Building Sargent BANCATO? (Who was present) of this Inhuman And potentially Health threatening Condition And WAS Ignored. There WAS NO Bathroom facilities running water or a place To

If you need more space, attach one additional sheet.

B. Action Requested: That the Responsible parties named unnamed be made To answer on Both civil rights violations as well AS criminal misconduct and there own Rules & Regulations C.C.R title 15 sections 3343(B) 3391 Conduct And cruel & unusual Punishment. And I be Interviewed by upper Administration.

Inmate/Parolee Signature: Kevin Burton Date Submitted: 2-3-05 continue

C. INFORMAL LEVEL (Date Received: FEB 4 2005)

Staff Response:

RECD 004 06 2005
JUL 9 2006
INMATE APPEALS
BRANCH

Staff Signature:

Date Returned to Inmate:

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono. CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature:

Date Submitted:

CDC Appeal Number

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

RECEIVED
JUL 29 2005
INMATE APPEALS
BRANCH

A. Describe problem continued:

sleep. I was Left in this holding cage for seven (7) full days and nights, with no MATTRESS or clothing other than one (1) pair of Boxers shorts and one (1) pair of socks. And did not receive any LINED, until C/O Lima 1st Watch Issued me one (1) sheet, (on 1-12-05) I also notified The M.T.A. That these conditions existed And of the SEVER BACK AND neck PAIN IT WAS CAUSING me. But was Not seen until 1-26-05 15 days later At which time I was prescribed four (4) different medications, three (3) for BACK pain & (1) for pain In Right Leg, To help Alleviate the swelling. The Treatment And Condition: I had to Endure WAS Both CRUEL AND UNUSUAL, which is Defined In PART: AN ACT over a period of time, where an Inmate is made To Endure TORTURE or Intentionally made To Under-go GREAT Pain or suffering. The Officers named unnamed are In violation of the above mentioned Acts) As well as my Civil Rights And or Criminal Misconduct and there own C.C.R. title 15. SECTION 3343 (B) AS well AS SECTION 3391 Conduct. Kerim Burton 2-3-05

B. Action Requested continued:

I also invoke title 15 (C.C.R) that NO Reprisals Be taken for expressing my right To Appeal. please see C.C.R title 15 Sec 3084 (D)

Kerim Burton 2-3-05

D. Previous Lawsuits and Administrative Relief

(a) Defendants:

CALIFORNIA Department of Corrections & Rehabilitation
(CDCR) Director, CDCR, MIKE EVANS, Warden, Solinas
Valley State Prison, Lt. KRENKE, Sergeant RAMIREZ,
SERGEANT BRUNCATO, SERGEANT O'KEENE, C/O CARRASCO,
C/O SILVA, C/O CONTRERAS, C/O PHILMON, C/O Wilson,
C/O HORRENCE, C/O PEREZ, C/O GRAYWOLD, C/O GOODHUME,
MTA CAUNTAY, MTA GARCIA, MTA ZIEGLER, MTA
MOSS, Does 1-50

Defendants.

E. Request for Relief

Plaintiff requests that this Court grant the following relief:

1. An injunction preventing defendant(s):
2. Damages in the sum of \$ 4,000.000 .
3. Punitive damages in the sum of \$ 4,000.000 .
4. Other: For Interest as allowed by law, for cost of suit herein incurred and any attorney fees, and for such other and further relief as the court may deem proper.

F. Demand for Jury Trial

Plaintiff demands a trial by ☒ Jury ☐ Court. (Choose one.)

G. Consent to Magistrate Judge Jurisdiction

In order to insure the just, speedy and inexpensive determination of Section 1983 Prisoner cases filed in this district, the Court has adopted a case assignment involving direct assignment of these cases to magistrate judges to conduct all proceedings including jury or bench trial and the entry of final judgment on consent of all the parties under 28 U.S.C. § 636(c), thus waiving the right to proceed before a district judge. The parties are free to withhold consent without adverse substantive consequences.

The Court encourages parties to utilize this efficient and expeditious program for case resolution due to the trial judge quality of the magistrate judges and to maximize access to the court system in a district where the criminal case loads severely limits the availability of the district judges for trial of civil cases. Consent to a magistrate judge will likely result in an earlier trial date. If you request that a district judge be designated to decide dispositive motions and try your case, a magistrate judge will nevertheless hear and decide all non-dispositive motions and will hear and issue a recommendation to the district judge as to all dispositive motions.

You may consent to have a magistrate judge conduct any and all further proceedings in this case, including trial, and the entry of final judgment by indicating your consent below.

Choose only one of the following:



Plaintiff consents to magistrate judge jurisdiction as set forth above.

OR



Plaintiff requests that a district judge be designated to decide dispositive matters and trial in this case.

I declare under the penalty of perjury that the foregoing is true and correct.

Aug 14, 2007
Date

Kerwin Burton
Signature of Plaintiff

VERIFICATION

I, KEVIN BURTON declare as follows:

1. I am a plaintiff In the above-entitled action.
2. I have read the foregoing Complaint and know the contents thereof. THE SAME IS True of my knowledge, except as to those matters which are therein alleged in information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 13 day of August, 2007, at San Diego, San Diego County, California.

Kevin Burton

KEVIN BURTON

JS44

(Rev. 07/89)

CIVIL COVER SHEET

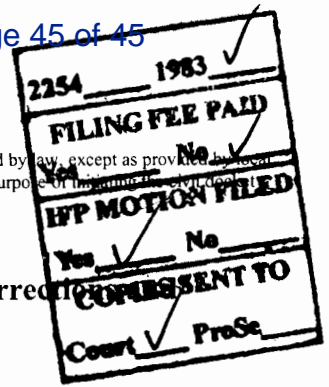
The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of the filing of civil cases only. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS

Kevin Burton

FILED

SEP 24 2007

California Department of Corrections
Rehabilitation

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES) San Diego
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY [Signature] DEPUTY

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Kevin Burton
1173 Front Street
San Diego, CA 92101
C-38062

ATTORNEYS (IF KNOWN)

'07CV 1870 W RBB

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PT | DEF | | PT | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

42 U.S.C. 1983

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> Marine <input type="checkbox"/> Miller Act <input type="checkbox"/> Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury-Medical Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (13958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Tort to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input checked="" type="checkbox"/> 550 Civil Rights		

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

\$8,000,000

Check YES only if demanded in complaint:

JURY DEMAND: ☒ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions):

JUDGE

Docket Number

DATE 9/24/2007

SIGNATURE OF ATTORNEY OF RECORD

L. Hammer